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Clerk
District Court

MAY 10 2006

For The Northern Mariana Islands
By _____
(Deputy Clerk)

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8 UNITED STATES DISTRICT COURT
9 NORTHERN MARIANA ISLANDS

10
11 UNITED STATES OF AMERICA,) Criminal Case No. 05-00023
12)
Plaintiff,)
13)
v.)
14 JUAN QUITUGUA,)
15)
Defendant.)
16)
_____)
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18

PLEA AGREEMENT

19 Pursuant to Rule 11(c)(1)(B), the United States and JUAN QUITUGUA, enter into the following
20 plea agreement:

21 1. On the understandings specified below, the Office of the United States Attorney
22 for the Districts of Guam and the Northern Mariana Islands ("this Office") will accept a guilty plea from
23 JUAN QUITUGUA, (the "defendant") to a two-count Superseding Information. Count One of the
24 Superseding Information charges a violation of Title 21, United States Code, Sections 841(a)(1) and
25 841(b)(1)(C), in connection with possession with the intent to distribute between .25 and .50 grams of
methamphetamine in the form commonly known as "ice" in or about June and July 2005, in the District

1 of the Northern Mariana Islands. This charge carries a maximum sentence of twenty years'
2 imprisonment, a term of supervised release of at least three years, a maximum fine of \$1,000,000, and a
3 mandatory \$100 special assessment. Count Two of the Superseding Information charges a violation of
4 Title 18, United States Code, Section 922(g)(3), in connection with being a user of a controlled
5 substance, namely methamphetamine in the form commonly known as ice, in possession of a firearm on
6 or about July 16, 2005. This charge carries a maximum sentence of ten years' imprisonment, a term of
7 supervised release, a maximum fine of \$250,000, and a mandatory special assessment.

8 2. It is understood that the defendant (a) shall truthfully and completely disclose all
9 information with respect to the activities of himself and others concerning all matters about which this
10 Office inquires of him, which information can be used for any purpose; (b) shall cooperate fully with
11 this Office, the United States Drug Enforcement Administration and the DEA/CNMI Task Force and
12 any other law enforcement agency designated by this Office; (c) shall attend all meetings at which this
13 Office requests his presence; (d) shall provide to this Office, upon request, any document, record, or
14 other tangible evidence relating to matters about which this Office or any designated law enforcement
15 agency inquires of him; (e) shall truthfully testify before the grand jury and at any trial and other court
16 proceeding with respect to any matters about which this Office may request his testimony; (f) shall bring
17 to this Office's attention all crimes which he has committed, and all administrative, civil, or criminal
18 proceedings, investigations, or prosecutions in which he has been or is a subject, target, party, or
19 witness; and, (g) shall commit no further crimes whatsoever. Moreover, any assistance the defendant
20 may provide to federal criminal investigators shall be pursuant to the specific instructions and control of
21 this Office and designated investigators.

22 3. It is understood that this Office cannot, and does not, agree not to prosecute the
23 defendant for criminal tax violations. However, if the defendant fully complies with the understandings
24 specified in this Agreement, no testimony or other information given by him (or any other information
25 directly or indirectly derived therefrom) will be used against him in any criminal tax prosecution.
Moreover, if the defendant fully complies with the understandings specified in this Agreement, he will
not be further prosecuted criminally by this Office for any crimes, except for criminal tax violations,
related to his participation in possession with intent to distribute methamphetamine in the form

commonly known as “ice,” and the possession of firearms, on or about July 16, 2005, in the District of the Northern Mariana Islands, to the extent that he has disclosed such participation to this Office as of the date of this Agreement, not involving crimes of violence. This Agreement does not provide any protection against prosecution for any crimes except as set forth above.

4. Except as otherwise provided in this Agreement, it is understood that this Agreement does not bind any federal, state, or local prosecuting authority other than this Office. This Office will, however, bring the cooperation of the defendant to the attention of other prosecuting offices, if requested by him.

5. In consideration of the foregoing and pursuant to Sentencing Guideline § 6B1.4, the parties hereby stipulate that the Sentencing Guidelines shall apply as follows:

Offense Level

a. Sentencing Guideline § 2D1.1 applies to the offense conduct in Count One of the Superseding Information, which includes the drug quantities for each count.

b. The defendant’s relevant conduct on Count One of the Superseding Information includes the possession with the intent to distribute at least .25 grams but less than .50 grams of methamphetamine in the form of “ice.” Accordingly, the base offense level under U.S.S.G. § 2D1.1(c)(7) is 14.

c. Sentencing Guideline § 2K2.1 applies to the offense conduct in Count Two of the Superseding Information, which includes being a prohibited person in possession of a firearm. Accordingly, the base offense level under U.S.S.G. § 2K2.1(a)(6) is 14.

d. Count One constitutes one group and Count Two another for the purposes of U.S.S.G. § 3D1.2. Pursuant to U.S.S.G. § 3D1.4, two levels are added to level 14 because the two groups are equally serious.

e. If the defendant allocutes to the crimes charged in Counts One and Two of the Superseding Information to the satisfaction of the Court, a two-level reduction in the offense level for acceptance of responsibility is warranted under U.S.S.G. § 3E1.1(a).

1 f. If the defendant's plea of guilty to Count One and Two of the Superseding
 2 Information is entered on or before May 12, 2006, the Government will move for an additional one-level
 3 reduction for acceptance of responsibility under U.S.S.G. § 3E1.1(b).

4 g. In accordance with the above, the applicable Guidelines offense level is
 5 13.

6 Criminal History Category

7 h. There is no stipulation as to criminal history category.

8 Sentencing Range

9 i. Based upon the calculations set forth above, the defendant's stipulated
 10 sentencing Guidelines level is 13. At Criminal History Category I, sentencing range is 12 to 18 months;
 11 at Category II, 21 to 27 months; and at Category III, 24 to 30 months. In addition, after determining the
 12 defendant's ability to pay, the Court may impose a fine pursuant to § 5E1.2. At Guidelines level 13, the
 applicable fine range is \$3,000 to \$30,000.

13 6. It is understood that the sentence to be imposed upon the defendant is within the
 14 sole discretion of the Court. This Office cannot, and does not, make any promise or representation as to
 15 what sentence the defendant will receive. However, this Office will inform the Probation Department
 16 and the Court of (a) this Agreement; (b) the nature and extent of the defendant's activities with respect to
 17 this case and all other activities of the defendant which this Office deems relevant to sentencing; and (c)
 18 the nature and extent of the defendant's cooperation with this Office. In so doing, this Office may use
 19 any information it deems relevant, including information provided by the defendant both prior to and
 20 subsequent to the signing of this Agreement. In addition, if this Office determines that the defendant
 21 has provided substantial assistance in an investigation or prosecution, and if he has fully complied with
 22 the understandings specified in this Agreement, this Office will file a motion, pursuant to Section 5K1.1
 23 of the Sentencing Guidelines, requesting the Court to sentence the defendant in light of the factors set
 24 forth in Section 5K1.1(a)(1)-(5). It is understood that, even if such a motion is filed, the sentence to be
 25 imposed on the defendant remains within the sole discretion of the Court. The defendant hereby
 consents to such adjournments of his sentence as may be requested by this Office.

1 7. It is understood that, should this Office determine either that the defendant has not
2 provided substantial assistance in an investigation or prosecution, or that the defendant has violated any
3 provision of this Agreement, such a determination will release this Office from any obligation to file a
4 motion pursuant to Section 5K1.1 of the Sentencing Guidelines, but will not entitle the defendant to
5 withdraw his guilty plea once it has been entered.

6 8. It is understood that, should this Office determine, subsequent to the filing of a
7 motion pursuant to Section 5K1.1 of the Sentencing Guidelines, that the defendant has violated any
8 provision of this Agreement, this Office shall have the right to withdraw such motion.

9 9. Nothing in this Agreement precludes either party from arguing that a sentence
10 other than one within the Stipulated Sentencing Guidelines range should apply in this case.

11 10. It is understood that, should the defendant commit any further crimes or should it
12 be determined that he has given false, incomplete, or misleading testimony or information, or should he
13 otherwise violate any provision of this Agreement, the defendant shall thereafter be subject to
14 prosecution for any federal criminal violation of which this Office has knowledge, including perjury and
15 obstruction of justice. Any such prosecution that is not time-barred by the applicable statute of
16 limitations on the date of the signing of this Agreement may be commenced against the defendant,
17 notwithstanding the expiration of the statute of limitations between the signing of this Agreement and
18 the commencement of such prosecution. It is the intent of this Agreement to waive all defenses based
19 on the statute of limitations with respect to any prosecution that is not time-barred on the date that this
20 Agreement is signed.

21 11. It is understood that in the event that it is determined that the defendant has
22 committed any further crimes, given false, incomplete, or misleading testimony or information, or
23 otherwise violated any provision of this Agreement, (a) all statements made by the defendant to this
24 Office or other designated law enforcement agents, and any testimony given by the defendant before a
25 grand jury or other tribunal, whether prior to or subsequent to the signing of this Agreement, and any
leads from such statements or testimony shall be admissible in evidence in any criminal proceeding
brought against the defendant; and (b) the defendant shall assert no claim under the United States
Constitution, any statute, Rule 11(e)(6) of the Federal Rules of Criminal Procedure, Rule 410 of the

1 Federal Rules of Evidence, or any other federal rule that such statements or any leads therefrom should
2 be suppressed. It is the intent of this Agreement to waive all rights in the foregoing respects.

3 12. The defendant understands that to establish a violation of Title 21, United States
4 Code, Section 841(a), possession with intent to distribute methamphetamine in the form commonly
5 known as ice, as charged in Count One of the Superseding Information, the government must prove each
6 of the following elements beyond a reasonable doubt:

7 a. First, that the defendant knowingly possessed a controlled substance,
8 namely methamphetamine in the form known commonly as "ice;" and

9 b. Second, that the defendant possessed it with the intent to deliver it to
10 another person.

11 13. The defendant understands that to establish a violation of Title 18, United States
12 Code, Section 922(g)(3), being a user of a controlled substance, namely methamphetamine in the form
13 commonly known as ice, in possession of a firearm, as charged in Count Two of the Superseding
14 Information, the government must prove each of the following elements beyond a reasonable doubt:

15 a. First, that the defendant knowingly possessed a firearm;

16 b. Second, that the firearm had been shipped or transported from outside the
17 CNMI into the CNMI; and

18 c. Third, at the time that the defendant possessed the firearm, the defendant
19 was a user of a controlled substance, namely methamphetamine in the form commonly known as ice.

20 14. The defendant acknowledges that he has been advised of his rights as set forth
21 below prior to entering into this plea agreement. Specifically, defendant has been fully advised of, has
22 had sufficient opportunity to reflect upon, and understands the following:

23 a. the nature and elements of the charges and the maximum possible penalty
24 provided by law;

25 b. his right to be represented by an attorney;

c. his right to plead not guilty and the right to be tried by a jury and at that
trial, the right to be represented by counsel, the right to confront and cross-examine witnesses against
him, and the right not to be compelled to incriminate himself, that is, the right not to testify;

1 d. that if he pleads guilty, there will not be a further trial of any kind on the
2 charges to which such plea is entered so that by entering into this plea agreement, he waives, that is,
3 gives up, the right to a trial; and

4 e. that, upon entry of a plea of guilty, or thereafter, the Court may ask him
5 questions about the offenses to which he has pled, under oath, and that if he answers these questions
6 under oath, on the record, his answers may later be used against him in prosecution for perjury or false
statement if an answer is untrue.

7 15. Being fully advised of his rights as set forth in the preceding paragraph, the
8 defendant represents that:

9 a. the plea agreement is voluntary and not a result of any force, threats or
10 promises apart from this plea agreement;

11 b. he reads, speaks, writes and understands English and has read and
12 understood the this agreement or has had a qualified interpreter read the agreement to him in a language
13 that he understands, and that he fully understood such translation; and

14 c. he is satisfied with the representation provided to him by his counsel.

15 16. It is further agreed (i) that the defendant will neither appeal, nor otherwise litigate
16 under Title 28, United States Code, Section 2255 and/or Section 2241, the conviction and any sentence
17 within or below the stipulated Sentencing range and (ii) that the government will not appeal any
18 sentence within or above the stipulated Sentencing range. This provision is binding on the parties even
19 if the Court employs a Guidelines analysis different from that stipulated to herein. Furthermore, it is
20 agreed that any appeal as to the defendant's sentence that is not foreclosed by this provision will be
21 limited to that portion of the sentencing calculation that is inconsistent with (or not addressed by) the
22 above stipulation.

23 17. The defendant agrees to forfeit, abandon, give up, and give away to the United
24 States prior to the date of sentencing hearing, any right, title and interest the defendant may have in
25 property subject to criminal forfeiture pursuant to 21 U.S.C. § 853, and 18 U.S.C. § 924(d)(1). It is
further agreed that any other items of property seized in the search of the defendant, his vehicle(s) and

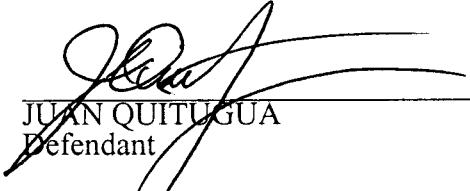
1 the defendant's home(s), not already returned to the defendant, are abandoned by the defendant and
2 shall accordingly be used, transferred, or disposed of at the discretion of the seizing agency.

3 18. By this agreement the defendant not only agrees to forfeit all interests in the
4 property referred to in the above paragraph, but agrees to take whatever steps are necessary to convey
5 any and all of his right, title and interest in such property to the United States. These steps include but
6 are not limited to the surrender of title, the signing of a quit claim deed, the signing of a consent decree,
7 the signing of abandonment papers, the signing of a stipulation of facts regarding the transfer and basis
8 for the forfeiture and the signing of any other documents necessary to effectuate such transfers. The
9 defendant further agrees to fully assist the government in the recovery and return to the United States of
any assets or portions thereof as described above wherever located.

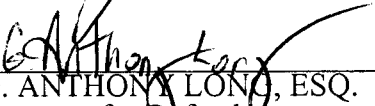
10 19. At the time that the defendant pleads guilty, the CNMI Office of the Attorney
11 General agrees not to prosecute criminally the defendant for any crimes related to his participation in the
12 possession with intent to distribute methamphetamine in the form commonly known as "ice," and the
13 possession of firearms, on or about July 16, 2005, in the District of the Northern Mariana Islands, to the
14 extent that he has disclosed such participation to the United States Attorney's Office as of the date of
15 this Agreement.
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20. This Agreement supersedes any prior understandings, promises, or conditions between this Office and the defendant. No additional understandings, promises, or conditions have been entered into other than those set forth in this Agreement, and none will be entered into unless in writing and signed by all parties.

DATED: 5/10/06


JUAN QUITUGUA
Defendant

DATED: 05.08.06


G. ANTHONY LONG, ESQ.
Attorney for Defendant

LEONARDO M. RAPADAS
United States Attorney
District of the Northern Mariana Islands

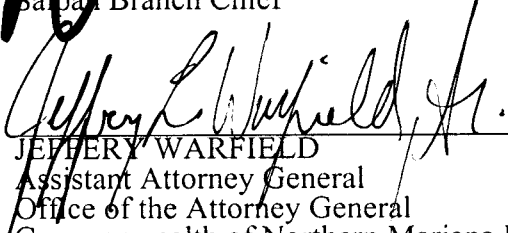
DATED: 5/10/06


TIMOTHY E. MORAN
Assistant U.S. Attorney

DATED: 5/10/06


CRAIC N. MOORE
Assistant U.S. Attorney
Saipan Branch Chief

DATED: 5/8/06


JEFFERY WARFIELD
Assistant Attorney General
Office of the Attorney General
Commonwealth of Northern Mariana Islands